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2 UNITED STATES DISTRICT COURT

3 NORTHERN DISTRICT OF NEW YORK

4 UNITED STATES OF AMERICA,

5

vs. 09-CR-507

6

KAMLA SAHABIR,

7

Defendants.

8 *****

9 Transcript of the Sentencing Proceedings held on

10 December 15, 2010, before the HONORABLE DAVID N. HURD, at

11 the United States Federal Courthouse, 10 Broad Street,

12 Utica, New York, before Nancy L. Freddoso, Registered

13 Professional Reporter and Notary Public in and for the

14 State of New York.

15

16 A P P E A R A N C E S

17 Government: UNITED STATES ATTORNEY'S OFFICE
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19 BY: EDWARD R. BROTON, AUSA
GWENDOLYN E. CARROLL

20

21 Defendant: E. STEWART JONES LAW FIRM, PLLC
ATTORNEYS AT LAW

22 28 Second Street
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23 BY: E. STEWART JONES, ESQUIRE

24

25 NANCY L. FREDDOSO, R.P.R.
Official United States Court Reporter
10 Broad Street, Room 316

26 Utica, New York 13501
(315) 793-8114

1 Sentencing

2 (WHEREUPON, the proceedings held on
3 December 15, 2010, were commenced at
4 1:35 p.m.

5
6 COURT CLERK: United States of America
7 versus Kamla Sahabir, criminal number 2009-CR-507.
8 Counselors, your appearance for the record,
9 please.

10 MR. BROTON: Good afternoon, Your Honor.
11 Ed Broton and Gwen Carroll on behalf of the United States.

12 MR. JONES: Good afternoon, Judge.
13 E. Stewart Jones on behalf of Kamla, and Kamla is in
14 person.

15 THE COURT: Is there any reason why we
16 should not now proceed with sentencing?

17 MR. BROTON: No, Your Honor.

18 MR. JONES: No, Your Honor.

19 THE COURT: Okay. Please stand.

20 Mr. Jones, you have had an opportunity to
21 review the Presentence Investigation Report with your
22 client?

23 MR. JONES: I have, Your Honor.

24 THE COURT: Ms. Sahabir, you have had a
25 chance to go over this report with your lawyer?

26 THE DEFENDANT: Yes, sir.

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2 THE COURT: Mr. Jones, you have indicated
3 you have some objections to some of the facts that are in
4 that report?

5 MR. JONES: Yes, Judge. As outlined in my
6 letter of December 3rd.

7 THE COURT: Do you wish to be heard further
8 with regards to that?

9 MR. JONES: I do not, Judge.

10 THE COURT: Mr. Broton, do you wish to be
11 heard further with regards to any objections to the facts,
12 and in particular, I guess the amount of loss that the
13 defendant would be charged with, is what seems to be the
14 main objection in the factual statement.

15 MR. BROTON: Your Honor, our position is
16 that the amount of loss is properly scored in the
17 Presentence Report by the Probation Department in that the
18 conduct, although not within the counts of conviction to
19 some degree, is still within relevant conduct that would
20 justify or account for the loss amount as calculated by the
21 Probation Department.

22 THE COURT: Does the government have any
23 objections to the factual accuracy of the report.

24 MR. BROTON: We do not, your Honor.

25 THE COURT: With regards to the amount of
26 loss, I was, of course, at the trial. I heard the

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2 testimony. The government admits that because of time
3 issues, it could not trace some of the earlier
4 transactions.

5 In respect to the jury verdict which
6 acquitted the defendant of Counts 3, 4, and 5, I am finding
7 by a fair preponderance of the evidence that the defendant,
8 this defendant, is not responsible for the Alli account or
9 the J.P. Morgan account.

10 Therefore, the loss, as far as this
11 defendant is concerned, is two million, four hundred and
12 nineteen thousand, two hundred and forty-five dollars and
13 ten cents.

14 Otherwise, the Court adopts the factual
15 statements contained in the Presentence Report, and the
16 Presentence Report will be made a part of the record, and
17 the Clerk is ordered to place the report under seal. If an
18 appeal is taken, counsel on appeal will be permitted access
19 to all parts of the report except for the Probation
20 Officer's rationale.

21 In addition to the Presentence Report, I
22 have received the government sentencing memorandum,
23 Mr. Jones sentencing memorandum which includes Exhibits A,
24 B, C, and D, a number of letters in support of the
25 defendant. I have also received additional letters in
26 support of the defendant which have all been docketed and

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2 are all part of the record in this case.

3 Are there any further written materials I
4 should review before we proceed further, counselors?

5 MR. BROTON: Not on behalf of the
6 government, Your Honor.

7 MR. JONES: No, Your Honor. I just want to
8 make sure that you received the most recent letter which
9 included a letter from Kamla's daughter.

10 THE COURT: I did. I have received and
11 reviewed in detail each letter received, etcetera.

12 Okay. The Probation Department has
13 recommended a base offense level of seven in Paragraph 22;
14 a loss of more than 2.5 million in Paragraph 23 for
15 eighteen.

16 Paragraph 24 and 25 have two additional
17 enhancements, for an adjusted offense level of twenty-nine,
18 a criminal history category one, and this would leave an
19 advisory guideline range of eighty-seven to one hundred and
20 eight months.

21 Because I have found that her charged loss
22 is less than 2.5 million, the specific offense loss will be
23 sixteen rather than eighteen.

24 Are there any further objections or requests
25 with regards to the Probation Officer's application of the
26 Sentencing Guidelines?

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2 MR. BROTON: No, your Honor.

3 THE COURT: Mr. Jones?

4 MR. JONES: Well, as you know, Judge, from
5 my sentencing memorandum and also my December 3rd letter, I
6 argue strongly that there is an adjustment to be made for
7 Kamla Sahabir with respect to her role in the offense.

8 THE COURT: Yes, that's noted and denied.
9 You have an exception.

10 I find that the adjusted offense level is
11 twenty-seven. The criminal history category one, and the
12 guideline imprisonment range, advisory, seventy to
13 eighty-seven months.

14 Mr. Jones, you have made a motion for a
15 non-guideline sentence. Do you wish to be heard further
16 with regards to that?

17 MR. JONES: Your Honor, I will rely upon the
18 twenty-four page sentencing memorandum that I submitted,
19 the exhibits attached to that, which include some
20 forty-five letters written on behalf of Kamla. There is
21 nothing that I would say now that would add to or enhance
22 my remarks within the four corners of those various
23 documents.

24 THE COURT: Mr. Broton, do you wish to have
25 any further comments with regards to the defendant's motion
26 for a non-guideline sentence?

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2 MR. BROTON: No, Your Honor, beyond our
3 position that the factors set forth in the defendant's
4 sentencing memorandum are not unique or such as would put
5 this case outside the heartland of the guidelines. And it
6 is our contention that the defendant should be sentenced
7 within the guideline range.

8 THE COURT: I will reserve on that at the
9 moment.

10 Mr. Broton, any victims of the conspiracy
11 wish to be heard like the State of New York or the Bank of
12 New York?

13 MR. BROTON: Not that I am aware of, Your
14 Honor.

15 THE COURT: Mr. Jones, do any family or
16 friends wish to address the Court at this time?

17 MR. JONES: Yes, Your Honor. Kamla would
18 like to speak, as would her sister and brother.

19 THE COURT: Call the sister and brother to
20 speak first, and then the defendant will obviously have a
21 chance to speak obviously.

22 You may be seated.

23 NANDRANIE SINGH: I am the sister of Kamla.
24 Two broken human beings are standing here today before you
25 pleading for your mercy. These are two people who have
26 paid a high toll emotionally, mentally, financially,

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2 physically and in every way possible. And they fully
3 understand that their involvement in this serious matter
4 was a senseless thing.

5 They regret it. Wish they can undo it. The
6 biggest mistake in their lives was that they trusted. They
7 blindly trusted another human being, and they followed the
8 behest of this person who betrayed them. This mistake,
9 Your Honor, has led them through a dark, deep abyss. It
10 has made them suffer.

11 Their dignity have been taken away. Their
12 life have been taken away. Their everything have been
13 taken away. The families, we have suffered. We have been
14 the source, they have been the source of scandal, of
15 blaspheme, of a lot of turmoil in our lives.

16 Sir, they have been good role models in the
17 community. They have impacted in a positive way the lives
18 of many people in Queens and in Schenectady. And, sir, I
19 pled for your mercy.

20 Sir, today I ask you to see -- I know that
21 you have to act within the confines of the law, sir, but I
22 beg of you, that you are also a human being, and to please
23 follow the humanity in you to see that if you put them
24 behind bars, that not only their lives would be shattered,
25 that not only two good lights would be extinguished to this
26 society, but the life of a twelve-year old child there will

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2 be shattered. She is just coming out into this world, and
3 she needs her parents, Your Honor.

4 Please have mercy, please. Mr. Singh's
5 manipulative lies have allowed him to hide behind the law
6 at this time, but one day he will face the truth. And I
7 beg of you for your mercy. I beg of you to please have
8 mercy on these two people. They will do anything to undo
9 it.

10 They made a mistake, and they are paying a
11 tremendous price, sir. I beg of you. Please, have mercy.
12 Thank you very much.

13 THE COURT: Thank you.

14 Does someone else wish to speak at this
15 time? Come forward to the podium and identify yourself and
16 say what you wish.

17 DOODNAUTH RAMKISSOON: Your Honor, today I
18 stand before you pleading for your compassion. I am mostly
19 for my sister, Kamla, and brother-in-law, Baldeo. As a
20 very devote follower of religion, they both try their best
21 to lead a very exemplary life.

22 They have good principles, and they have
23 molded the lives of so many people. They have worked very
24 closely with their church. They have started many programs
25 that benefited so many young children which created a
26 foundation for them to achieve in their lives.

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2 Today they are at your mercy for an act that
3 I am sure they did not know what the consequences would
4 have been, and for which they wish they could have undone
5 like my sister had said. But all of that is now history at
6 this time before you.

7 I plead on their behalf that their daughter,
8 who is so young and who is beginning to see the experiences
9 of this life and this world, the only comfort she has known
10 is being with her parents. She cannot fathom what her life
11 would be like to be away from her parents. Your Honor, her
12 future will be in jeopardy. Her life will be in turmoil.

13 All of us, my other sisters and my brother,
14 have paid a tremendous price for this experience that they
15 have been going through for the past year or over. I plead
16 with Your Honor that you can give us back my sister and
17 brother-in-law so that we can able to carry on life a
18 dignified life that we are accustomed to.

19 I wish to mention, Your Honor, that every
20 year we gather together to observe the memorial service of
21 my mother and my father. And we all sit together in prayer
22 to remember our good parents. I cannot imagine what it
23 will be like for them not to be around. We have always sat
24 together to do this.

25 Your Honor, take this into consideration,
26 and for whatever misdeed that was done, I hope that you

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2 will take that in consideration so that when you make your
3 decision, you will show your mercy and your compassion so
4 that their lives will be better off serving people in the
5 community. I think, Your Honor, their life would be of
6 better use being out in the open, serving society, than
7 being behind bars. I beg of you, Your Honor, to take all
8 of this into consideration as you make your decision. I
9 thank you.

10 THE COURT: Thank you.

11 Mr. Jones, do you wish to be heard?

12 MR. JONES: No, Your Honor, but Kamla would
13 like to speak at this time.

14 THE COURT: Please say what you wish for as
15 long as you wish.

16 THE DEFENDANT: Sir, I came to the United
17 States over twenty-five years ago. We were in this same
18 courtroom several weeks ago, my husband and I.

19 When I came from Guyana, we are from a
20 country where we experience both racial and financial
21 discrimination. My father who worked on the sugar
22 plantation in Guyana and who was very ambitious, it was his
23 dream that his children will go to that promise land of
24 America and continue to work, enjoy the benefits of what
25 America has to offer, and that is both academically, as
26 well as other aspects of our lives.

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2 My father was a very simple man. While he
3 worked very hard for his children to have a very good
4 education, my mother stood home and took care of my other
5 six siblings, my brothers and sisters. Coming to America
6 was a blessing for all of us because the opportunities are
7 endless.

8 When I went to Tampa, Florida thirty-five
9 years ago, my goal was academics, and I thought that this
10 country has vastness, all the opportunities we can wish
11 for. I went to school. I accomplished classes, some
12 college, but my parents taught us that family togetherness
13 is very important.

14 And I recall the words of my dying father,
15 that if any one of us were to encounter difficulties in our
16 lives, he is asking that the brothers and sisters stick
17 together and help the less fortunate ones. That is why,
18 even though my husband and I were going through two
19 tremendous years of mental agony, financial difficulties,
20 the stress of dealing with everyday life, and with the hope
21 of some day this will be over, my brothers and my sisters
22 and all of my nieces, nephews, my in-laws and all our
23 extended families stood by our sides because they believe
24 in us.

25 My company that I work for right now for
26 seven years could have kicked me, as my husband lost his

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2 job a year ago due to a newspaper article. He was
3 terminated. But because of the fact that I am a hard
4 worker. I work relentlessly. Not only did I do a fabulous
5 job working and being one of the top agents of my company,
6 but that was endorsed by the fact that ninety-nine percent
7 of my business was referrals, meaning that people believed
8 in me, and they think the service I offer can help other
9 people.

10 I can go on and on and on, but I will try to
11 say as much as I can in this little bit of time. We were
12 raised in a family with very strong moral ethical values.
13 We believe in selfless service. In all my upbringing, I
14 believe serving humanity is serving God. And from
15 childhood until this day, my husband and I participates in
16 a minimum of twenty hours of community service.

17 There are old and disabled people in our
18 community that needs help, that needs a form to be filled
19 because they have no one to call. They will call my
20 husband and I, and I will drive to their homes. They can
21 all attest to that. I will do what it takes to drive them
22 to the Department of Social Services, a ride to the
23 hospital, a ride to the doctor's office.

24 I work seven days every week around the
25 clock. I attend to my daughter, Ishana, who is twelve
26 years old, trying to raise her with the same values that my

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2 parents raised us. I will speak to her no matter how busy
3 we are. My husband and I and her will sit every night,
4 even if it is for a few minutes, helping her with her
5 homework or speaking to her that you are in a country where
6 education is very important.

7 We will ask her about her day, and she will
8 ask us about our days, what we did, and what were the
9 trials of our days. Inasmuch as she is twelve years old,
10 she is extremely intelligent. She accompanies us
11 everywhere we go. We have never gone anyplace separately
12 but as a family because that's the life that we were
13 raised, and that's all I know.

14 I enjoyed several benefits as a hard worker
15 from my company. Even for my conventions, I will ask the
16 school to give her a couple of days off so we can again be
17 together as a family.

18 Ishana is a very bright child. She is in
19 several gifted programs. She is hoping some day, even
20 though she is a little bit indecisive, to be either a
21 lawyer or a doctor because we have several doctors in our
22 family, and we believe in humanity. She thinks, just like
23 her parents and her cousins and her aunts and uncles, she
24 continue the family trend of helping people, not looking
25 for anything in return.

26 When we were here several weeks ago, with

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2 the help of our attorney that we will prove ourselves not
3 guilty and walk out this courtroom victorious. Because of
4 one little mistake we made, and that is trusting a man by
5 the name of Lal Singh.

6 We borrowed money in the name of propagating
7 and promoting our church because of a growing community in
8 Schenectady. My husband is a classical music instructor,
9 and I am also a yoga instructor. I teach yoga in the
10 community every Tuesday, and he teaches music for free -- I
11 teach on Tuesdays and he teach on Thursdays.

12 We work with all the members of the
13 community, community educators, helping to keep children
14 off the streets in the new growing community in
15 Schenectady, a community that both my husband and I
16 contributed to towards the economic growth of that city.
17 We were successful because children are turning to music,
18 to yoga for relaxation and to ease the burden of stress.

19 As a musician, we are told and all research
20 has shown that children that are musically inclined are
21 academically inclined, and we have seen all his students
22 heading from high school to college, which is a good thing
23 because they are the future of the world.

24 As I said several weeks ago, I thought that
25 sitting in front of a group of twelve people and presenting
26 the facts and our background and explaining to them through

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2 our attorneys how we were manipulated by a man who pled
3 guilty to all these charges. We borrowed money from him
4 and did sign a promissory note. We promised to pay him
5 back, and he fed us beautiful words, that I trust you
6 people, that I do not want anyone to know my business, that
7 I am a banker. I am a banker of almost thirty years. I am
8 very successful.

9 One of his privileges, he told us, as a
10 banker is that he is able to sell stocks short term, and
11 because of my little experience in Wall Street where I
12 worked in financial services, I know there is such a thing
13 as short-term trading. And he explained to us, we believed
14 him, that the money that he was wiring to us was as a
15 result of his short-term investments, and it was as a
16 result of one of his privileges as a vice-president at the
17 bank.

18 I would remember very early in the mornings
19 when he would call us at our home. He will play -- in the
20 background, we will hear music in Hinduism. It is
21 considered hymns, that here is a good man. Here is a man
22 who is God fearing. Why should we not believe him?

23 My husband and I were involved in several
24 temples, and he would do music as a fundraiser to help all
25 the organizations. This man manipulated him and used the
26 skills and ability of my husband as part of his fundraising

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2 activities for his temple. He told us that my husband is
3 one of the best musicians that he has ever met and because
4 as a result of my husband helping his temple, that they
5 were able to do many other events and activities, and I
6 know that for sure because I accompanied my husband on many
7 occasions.

8 Lal Singh said he met me, and he knew me
9 ever since 1995. I never met this man until 2001. Again,
10 his lies were so crafted. He would sift from the sources
11 and authorities and drafted his script so beautifully that
12 he could have convinced a jury and everyone that was
13 present that my husband and I were part of his crime.

14 Sir, never we were a part of his heinous
15 crime. We are hard working people. We don't have
16 thousands or hundreds of thousands in the bank. The
17 properties we owe all have legitimate mortgages from
18 commercial banks.

19 As a realtor, I was extremely successful.
20 Even in this very trying time, I would say I was still
21 successful. Everyday I wake up in the morning, I says,
22 Lord, please let me have another successful day. Let me
23 have the strength and the ability to face the general
24 public, even though there are some people who may think
25 that as a result of Lal Singh's lies and wrongdoing, that
26 maybe I am one of those persons.

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2 The results that I have accomplished and
3 because of my professional life, it tells me that people do
4 not believe Lal Singh and what was published in the
5 newspapers. I am a hard working individual. My father
6 told me when I was a little child growing up that winning
7 the lottery is staying healthy and working hard, and I
8 think I have won the lottery because I am always healthy
9 and I have always worked hard.

10 Today I am here. I am embarrassed by the
11 fact that my sister and my brother and all my in-laws are
12 here, that we put them through tremendous mental turmoil
13 the last two years. Many people know I am a strong person,
14 but I do have my weak moments. I will call my brother who
15 is a priest, and I will cry to him, and I will tell him how
16 much I am affected. I never went to a mental institution.
17 I never went to a hospital because I know I have inner
18 strength.

19 With the help of my family, my sister, we
20 would have lost everything. We would perhaps lost the home
21 we are living in right now. My brother and sister, I
22 think, helped us with every last bit of penny that they had
23 available to them. Had it not been for them, maybe we
24 would have also been homeless, living on the streets.

25 One day I did not have enough money to pay
26 our electric bill, and I didn't tell anyone because I was

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2 embarrassed. My husband and I came home, and there was no
3 power. An agent who, over the years, made over six digits
4 because she is bombarded with all the expenses could not
5 afford to pay a six hundred dollar gas and electric bill.
6 I went to the Department of Social Services, and I sat
7 there in total rejection. This is not where your father
8 wanted you to be.

9 I don't believe in living off the
10 government. I don't believe in asking for help. We
11 believe in hard work. Because I believe strongly in the
12 laws of Karma, that whatever you do, you have to pay. And
13 I think if I take from the government, I have to pay it
14 back. I went to the Department of Social Services and I
15 asked for a loan so that our gas and electric could be
16 reinstated, and they did that. And I pay them eighty
17 dollars each month.

18 I could have gone, with everything that is
19 happening, and sit there and fill forms and ask for help,
20 but that is not -- I do not want to be a burden to the
21 United States of America. I want to be able to be given
22 the opportunity, just as my father says, work hard and if
23 you are good at what you do, you can never be suppressed.

24 I want the opportunity to continue to work
25 in this beautiful land of America. I came here not to live
26 in prison, not to live in an institution because I have the

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2 energy and ability to help myself and to put my daughter
3 through college so that some day she can become a doctor or
4 a lawyer. My husband is a good man. He is a kind man.

5 And many days and many nights when I will
6 ask him to take me, in spite of inclement weather, to help
7 families, he will drive me to their homes and sit and wait
8 in the car so I can spend fifteen and twenty minutes to
9 help the old and aged fill their forms to go to the
10 doctor's office the next day or to apply for food stamps or
11 to apply for health benefits because of one man, who has no
12 mercy.

13 He came to this court. He freed his wife
14 who enjoyed hundred of thousands, his niece, his brother,
15 his best friend, but he has thrown my husband and I in
16 front of a bus, and he drove over us.

17 What will happen to Ishana? We don't want
18 her to be a burden to the United States government. We
19 want to be able to provide for college. We want to be able
20 to be around her in every step of her life. We came to
21 America for a better life, and we have worked for that
22 every step of the way. It is unfortunate that twelve
23 people made a decision which today will influence what will
24 happen tomorrow.

25 Sir, as I said earlier, I can go on and on
26 and on. If I were to bring you letters, I will bring you

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2 thousands, perhaps millions, because not only did we work
3 in this part of New York, but in Florida and New York City.
4 We are happy to tell you that students that came through
5 the classes of my husband are doctors and lawyers today.
6 My nieces who I was around all the time, they are doctors.
7 My brother's daughter is working in Congress. My sister's
8 son is in engineer school.

9 I do not want anyone to taunt my daughter
10 that their parents are criminals, they stole from the
11 government. I have no intentions of stealing from the
12 United States Government. I came to this country to work,
13 to pay my taxes, and enjoy what I have earned. I do not
14 want anyone to say to my child that your parents are in
15 jail. I do not want anyone to say to her -- I do not know
16 what her mental condition will be. I do not know if she
17 will be able to face anyone telling her anything negative
18 about her parents.

19 Every Sunday morning ever since she was
20 born, unless we are out of the country or out of state, we
21 will together go as a family and pray. Everyone that knows
22 me even, my office knows that between the hours of nine to
23 2:00 p.m. on Sundays, do not call me, I will not answer my
24 phone because that is the time for my family and myself in
25 church.

26 Every one knows on Tuesday from six to seven

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2 don't call me. I am teaching yoga as a community service.
3 Every one knows on Thursdays from six to eight don't call
4 my husband or I. We are were the children teaching music
5 in our temple on Paige Street.

6 This was not easy for us. This was not easy
7 for our family. We did everything we could to prove to the
8 government, to the twelve people that were sitting there,
9 that we did not do anything wrong. And today I want to
10 state that my husband and I did not steal. We never
11 benefited from anything that Mr. Singh stole. He used us.
12 He abused us.

13 I am asking today that, please, consider
14 everything that I just said, and if we were given the
15 opportunity to come back in this courthouse with maybe
16 other evidences that might be available, once again we will
17 prove to you that Lal Singh did what he did, and him and
18 his family benefited. My husband and I gained nothing.
19 Rather than gaining, we are at the point of losing
20 everything we worked so hard for.

21 I hope today that when I leave this
22 courtroom, we can go back home as a family, my husband and
23 I, together with my little daughter, so we can continue to
24 work for her and work with her so that she can be an
25 outstanding young woman. Thank you, sir.

26 THE COURT: Thank you.

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2 Mr. Broton, do you wish to be heard?

3 MR. BROTON: Your Honor, not beyond what is
4 in our sentencing memorandum.

5 MR. JONES: Your Honor, I have just been
6 advised that the daughter would like to speak, if that is
7 permissible.

8 THE COURT: If she wishes. She had a chance
9 before, but if she wants to come for a few moments. I have
10 read her letter.

11 ISHANA SAHABIR: Your Honor, I speak as the
12 daughter of Kamla and Baldeo Sahabir. All I would like to
13 say is my mother is a very hard working, very, very hard
14 working woman with my father.

15 If I am anything, if I am doing well in the
16 academic field -- if I am doing well in the academic field,
17 it is all because of them. Whatever we have done, we did
18 it as a family. I believe that they are completely
19 innocent. That's all.

20 THE COURT: Thank you.

21 I have considered the applicable Sentencing
22 Guidelines, as well as the other factors listed in
23 18 U.S.C. 3553(a). These factors include the pertinent
24 Sentencing Commission policy statements, the need to avoid
25 unwarranted sentencing disparities, and the requirement
26 that judges impose sentences that reflect the seriousness

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2 of the offense, promote respect for the law, provide just
3 punishment, afford adequate deterrence, and protect the
4 public.

5 I have taken into account 18 U.S.C. 3553(a),
6 the variety of factors other than the Sentencing
7 Guidelines.

8 I find that the defendant has no prior
9 criminal history, and she has demonstrated stability in the
10 community as evidenced by her employment history and the
11 numerous letters submitted on her behalf and in her
12 statement today.

13 The loss amount appears to substantially
14 overstate the seriousness of the offense since the loss was
15 derived from, quote, unclaimed, end quote, funds, and there
16 were no individuals identified as victims.

17 The government has not furnished evidence
18 that the defendant directly benefited from the fraudulent
19 proceeds. The defendant has a twelve-year old daughter who
20 faces a critical time period of her life without the
21 benefit of two parents.

22 Furthermore, the defendant's husband faces
23 deportation which would create an added consequence for the
24 defendant and her family. Neither the State of New York,
25 nor the Bank of America has come forward with victims of
26 the scheme and the conspiracy.

1 Sentencing

2 However, the above does not mean that this
3 was not a very serious crime. It was not a little mistake.
4 It involved millions of dollars. It involved a number of
5 years. It involved hundreds of transactions.

6 As the defendant has just demonstrated, she
7 is a very intelligent woman, and twelve jurors, after a
8 very fair trial and after she was represented by
9 outstanding counsel, did not believe that she was duped or
10 her husband was duped in a transaction that occurred over,
11 as I said, a number of years, hundreds of transactions, and
12 millions of dollars.

13 Make no mistake about it, this was a very
14 serious conspiracy. The jury heard all of the evidence,
15 and twelve jurors found the defendant guilty. That all
16 being said, I do find that the purposes of
17 18 U.S.C. 3553(a) will be satisfied by a sentence outside
18 the guidelines.

19 To note that this is a serious crime, the
20 maximum sentence could be twenty years in prison, and the
21 guidelines advisory talk about six to eight to nine years
22 in prison. So it should not be minimized that this is not
23 a serious crime that the defendants have been convicted of.
24 It was not a little mistake. A little mistake does not
25 last for years. A little mistake does not last for
26 millions of dollars. A little mistake does not involve

1 Sentencing

2 hundreds of transactions.

3 With that come forward to be sentenced.

4 Upon a finding of guilty by a jury on
5 Counts 1, 2, and 6 through 10 of the Indictment, it is the
6 judgment of the Court, and after considering the factors
7 under 18 U.S.C. 3553(a), that a non-guideline sentence is
8 appropriate.

9 It is the judgment of the Court that you are
10 hereby committed to the custody of the Bureau of Prisons to
11 be imprisoned for a term of thirty-six months on each count
12 of conviction to run concurrent with each other, for a
13 total term of imprisonment of thirty-six months.

14 Upon your release from imprisonment, you
15 shall be placed on supervised release for three years on
16 Counts 1 and 2, and five years on Counts 6 through 10, all
17 to run concurrent for a total term of five years of
18 supervised release.

19 While on supervised release, you shall not
20 commit another federal, state or local crime. You shall
21 comply with the standard conditions that have been adopted
22 by this Court, and you shall comply with the following
23 special condition:

24 I find there is a reasonable foreseeable
25 risk that you may engage in criminal conduct similar or
26 related to the present offense or your past criminal

1 Sentencing

2 conduct. Therefore, I direct you notify your employer of
3 risks that may be occasioned by your criminal record or
4 personal history or characteristics, and direct the
5 Probation Officer to confirm your compliance with this
6 notification requirement.

7 Based on my determination that you pose a
8 low risk of future substance abuse, the mandatory drug
9 testing condition is waived.

10 It is further ordered you shall pay
11 restitution in the amount of \$2,419,245.10 to the victim,
12 the Bank of New York. Restitution is due and payable at
13 the rate of twenty-five percent of your earnings while
14 incarcerated and at the minimum rate of two hundred and
15 fifty dollars per month or ten percent of your monthly
16 earnings, whichever is greater, upon your release.

17 You are jointly and severally liable for
18 restitution with co-defendant, Baldeo Sahabir, and related
19 to Lal Singh. Restitution payments shall be forwarded to
20 the United States District Court in Syracuse.

21 I do not impose any fine based upon your
22 financial resources, projected earnings, as well as the
23 restitution ordered.

24 You shall pay to the Clerk of Court a
25 special assessment of seven hundred dollars which is due
26 and payable immediately.

1 Sentencing

2 You do have a right to appeal this sentence.
3 Consult with your attorney to determine whether or not an
4 appeal is warranted. Any appeal must be filed within
5 fourteen days of this sentence.

6 Strictly based upon the situation with your
7 daughter, I am allowing to you self-report. You shall
8 surrender to the Bureau of Prisons by reporting to the
9 institution designated by 2:00 p.m. on Tuesday, March 29,
10 2011, and are to contact the U.S. Marshal of this district
11 who will advise you of the institution designated.

12 Anything further, counselors?

13 MR. JONES: Your Honor, I had requested in
14 my sentencing memorandum that you also recommend to the
15 Bureau of Prisons that she be sentenced to a facility
16 within the State of New York as close to her daughter as
17 possible.

18 THE COURT: So recommended.

19 MR. JONES: Thank you.

20 THE COURT: Anything further, counselors?

21 MR. JONES: No, Judge.

22 MR. BROTON: Your Honor, I would just ask
23 the record to reflect our exception to the sentence outside
24 the guidelines range.

25 THE COURT: So noted.

26 Without anything further, Mr. Minor.

1 Sentencing

2 COURT CLERK: Court stands for a brief

3 recess.

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5 (Whereupon, the proceedings held on

6 December 15, 2010, were ended at 2:25 p.m..)

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1 C E R T I F I C A T E

2

3 I, NANCY L. FREDDOSO, RPR, Official Court Reporter
4 in and for the United States District Court, Northern
5 District of New York, do hereby certify that I recorded
6 stenographically the foregoing at the time and place
7 mentioned; that I caused the same to be transcribed; and
8 that the foregoing is a true and correct transcript thereof
9 to the best of my knowledge, ability, and belief.

10

11 I further certify that I am not an attorney or
12 counsel of any parties, not a relative or employee of any
13 attorney or counsel connected with the action, nor
14 financially interested in the action.

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16

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18 S/NANCY L. FREDDOSO, RPR
19 Official United States Court Reporter

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22 My Commission expires March 30, 2011

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